

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

v.

AMIN KHOURY,

Defendant

Case No. 1:20-cr-10177-PBS

**DEFENDANT AMIN KHOURY’S MOTION FOR RECONSIDERATION OF ORDER
DENYING MOTION FOR LEAVE TO FILE MOTION *EX PARTE* AND UNDER SEAL**

Defendant Amin Khoury respectfully moves this Court to reconsider its order (ECF No. 196) denying Mr. Khoury’s motion for leave to file a motion *ex parte* and under seal (the “Submission”) (ECF No. 194).

Mr. Khoury seeks to file, *ex parte* and under seal, a motion to compel a third party to produce documents responsive to a Rule 17(c) subpoena that was issued by this Court. All motion practice regarding this Rule 17(c) subpoena—including Mr. Khoury’s request for permission to serve the subpoena, various hearings before Chief Magistrate Judge Kelley on Mr. Khoury’s request, and the third party’s subsequent challenge of that subpoena—has been conducted *ex parte* and under seal to date, as is customary in this district. The subject matter of Mr. Khoury’s motion to compel, like the subject matter of his *ex parte* sealed request to serve the subpoena, would reveal confidential trial strategy to the government. *See United States v. Diamont*, Case No. 1:05-cr-10154, ECF No. 33, slip op. at 5 (D. Mass. Nov. 22, 2005) (Dien, M.J.) (“[E]x parte proceedings are available under Rule 17(c) both based on the language of the Rule and for policy reasons.”). Further, both Mr. Khoury and the third party have agreed to keep these proceedings confidential, and the government has never challenged this.

WHEREFORE, for good cause shown, Mr. Khoury respectfully requests that the Court reconsider its ruling, and GRANT his motion to file the Submission *ex parte* and under seal.

Respectfully submitted,

AMIN KHOURY,

By his attorneys,

/s/ Eóin P. Beirne

Roy Black (*pro hac vice*)
BLACK SREBNICK
201 South Biscayne Boulevard
Suite 1300
Miami, FL 33131
(305) 371-6421
rblack@royblack.com

R. Robert Popeo (BBO #403360)
Mark E. Robinson (BBO #423080)
Cory S. Flashner (BBO #629205)
Eóin P. Beirne (BBO #660885)
Mathilda S. McGee-Tubb (BBO #687434)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000
RRPopeo@mintz.com
MERobinson@mintz.com
CSFlashner@mintz.com
EPBeirne@mintz.com
MSMcGee-Tubb@mintz.com

Dated: May 12, 2022

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I, Eóin P. Beirne, hereby certify that I did not confer with counsel for the government regarding this motion as the underlying Submission would be made *ex parte* and under seal.

/s/ Eóin P. Beirne

Eóin P. Beirne

CERTIFICATE OF SERVICE

I, Eóin P. Beirne, hereby certify that on May 12, 2022, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system and caused it to be served on all registered participants via the notice of electronic filing.

/s/ Eóin P. Beirne

Eóin P. Beirne